

Senate File 2360 - Introduced

SENATE FILE 2360
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2173)

A BILL FOR

1 An Act relating to the use of a simulated firearm or simulated
2 explosive when committing certain criminal offenses, and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **702.26 Simulated firearm or**
2 **simulated explosive.**

3 A simulated firearm or simulated explosive is a device
4 or explosive that appears to be a firearm or explosive when
5 displayed or when represented to be a firearm or explosive.

6 Sec. 2. Section 708.1, subsection 2, paragraph c, Code 2022,
7 is amended to read as follows:

8 c. Intentionally points any firearm toward another, or
9 displays in a threatening manner any dangerous weapon or
10 simulated firearm toward another.

11 Sec. 3. Section 708.2, subsection 3, Code 2022, is amended
12 to read as follows:

13 3. A person who commits an assault, as defined in section
14 708.1, and uses or displays a dangerous weapon or simulated
15 firearm in connection with the assault, is guilty of an
16 aggravated misdemeanor. **This subsection** does not apply if
17 section 708.6 or **708.8** applies.

18 Sec. 4. Section 708.2A, subsection 2, paragraph c, Code
19 2022, is amended to read as follows:

20 c. An aggravated misdemeanor, if the domestic abuse assault
21 is committed with the intent to inflict a serious injury upon
22 another, or if the person uses or displays a dangerous weapon
23 or simulated firearm in connection with the assault. This
24 paragraph does not apply if **section 708.6** or **708.8** applies.

25 Sec. 5. Section 708.2C, subsection 4, Code 2022, is amended
26 to read as follows:

27 4. A person who commits an assault in violation of
28 individual rights and uses or displays a dangerous weapon or
29 simulated firearm in connection with the assault, is guilty of
30 a class "D" felony.

31 Sec. 6. Section 708.3A, subsection 2, Code 2022, is amended
32 to read as follows:

33 2. A person who commits an assault, as defined in section
34 708.1, against a peace officer, jailer, correctional staff,
35 member or employee of the board of parole, health care

1 provider, employee of the department of human services,
2 employee of the department of revenue, civilian employee of a
3 law enforcement agency, civilian employee of a fire department,
4 or fire fighter, whether paid or volunteer, who knows that
5 the person against whom the assault is committed is a peace
6 officer, jailer, correctional staff, member or employee of
7 the board of parole, health care provider, employee of the
8 department of human services, employee of the department
9 of revenue, civilian employee of a law enforcement agency,
10 civilian employee of a fire department, or fire fighter and who
11 uses or displays a dangerous weapon or simulated firearm in
12 connection with the assault, is guilty of a class "D" felony.

13 Sec. 7. Section 708.6, Code 2022, is amended to read as
14 follows:

15 **708.6 Intimidation with a dangerous weapon or simulated**
16 **firearm or simulated explosive.**

17 1. A person commits a class "C" felony when the person,
18 with the intent to injure or provoke fear or anger in another,
19 shoots, throws, launches, or discharges a dangerous weapon
20 or displays or represents a simulated firearm or simulated
21 explosive to be a firearm or explosive capable of being shot,
22 thrown, launched, or discharged at, into, or in a building,
23 vehicle, airplane, railroad engine, railroad car, or boat,
24 occupied by another person, or within an assembly of people,
25 and thereby places the occupants or people in reasonable
26 apprehension of serious injury or threatens to commit such an
27 act under circumstances raising a reasonable expectation that
28 the threat will be carried out.

29 2. A person commits a class "D" felony when the person
30 shoots, throws, launches, or discharges a dangerous weapon
31 or displays or represents a simulated firearm or simulated
32 explosive to be a firearm or explosive capable of being shot,
33 thrown, launched, or discharged at, into, or in a building,
34 vehicle, airplane, railroad engine, railroad car, or boat,
35 occupied by another person, or within an assembly of people,

1 and thereby places the occupants or people in reasonable
2 apprehension of serious injury or threatens to commit such an
3 act under circumstances raising a reasonable expectation that
4 the threat will be carried out.

5 Sec. 8. Section 708.11, subsection 3, paragraph b,
6 subparagraph (2), Code 2022, is amended to read as follows:

7 (2) The person commits stalking while in possession of a
8 dangerous weapon, as defined in section 702.7, or a simulated
9 firearm, as defined in section 702.26.

10 Sec. 9. Section 709.3, subsection 1, paragraph a, Code 2022,
11 is amended to read as follows:

12 a. During the commission of sexual abuse the person
13 displays in a threatening manner a dangerous weapon or
14 simulated firearm, or uses or threatens to use force creating a
15 substantial risk of death or serious injury to any person.

16 Sec. 10. Section 710.3, subsection 1, Code 2022, is amended
17 to read as follows:

18 1. Kidnapping where the purpose is to hold the victim for
19 ransom, where the kidnapper is armed with a dangerous weapon or
20 simulated firearm, or where the victim is under eighteen years
21 of age other than a kidnapping by a parent or legal guardian
22 whose sole purpose of the kidnapping is to assume custody of a
23 victim under eighteen years of age, is kidnapping in the second
24 degree.

25 Sec. 11. Section 711.2, Code 2022, is amended to read as
26 follows:

27 **711.2 Robbery in the first degree.**

28 A person commits robbery in the first degree when, while
29 perpetrating a robbery, the person purposely inflicts or
30 attempts to inflict serious injury, or is armed with a
31 dangerous weapon or simulated firearm. Robbery in the first
32 degree is a class "B" felony.

33 Sec. 12. Section 713.3, subsection 1, paragraphs a and b,
34 Code 2022, are amended to read as follows:

35 a. The person has possession of an explosive or incendiary

1 device or material or simulated explosive.

2 *b.* The person has possession of a dangerous weapon or
3 simulated firearm.

4 Sec. 13. Section 713.4, subsection 1, Code 2022, is amended
5 to read as follows:

6 1. A person commits attempted burglary in the first degree
7 if, while perpetrating an attempted burglary in or upon an
8 occupied structure in which one or more persons are present,
9 the person has possession of an explosive or incendiary device
10 or material or simulated explosive, or a dangerous weapon or
11 simulated firearm, or intentionally or recklessly inflicts
12 bodily injury on any person.

13 Sec. 14. Section 713.5, subsection 1, paragraphs a and b,
14 Code 2022, are amended to read as follows:

15 *a.* While perpetrating a burglary in or upon an occupied
16 structure in which no persons are present, the person has
17 possession of an explosive or incendiary device or material
18 or simulated explosive, or a dangerous weapon or simulated
19 firearm, or a bodily injury results to any person.

20 *b.* While perpetrating a burglary in or upon an occupied
21 structure in which one or more persons are present, the person
22 does not have possession of an explosive or incendiary device
23 or material or simulated explosive, nor a dangerous weapon
24 or simulated firearm, and no bodily injury is caused to any
25 person.

26 Sec. 15. Section 713.6, subsection 1, paragraphs a and b,
27 Code 2022, are amended to read as follows:

28 *a.* While perpetrating an attempted burglary in or upon an
29 occupied structure in which no persons are present, the person
30 has possession of an explosive or incendiary device or material
31 or simulated explosive, or a dangerous weapon or simulated
32 firearm, or a bodily injury results to any person.

33 *b.* While perpetrating an attempted burglary in or upon an
34 occupied structure in which one or more persons are present,
35 the person does not have possession of an explosive or

1 incendiary device or material or simulated explosive, nor a
2 dangerous weapon or simulated firearm, and no bodily injury is
3 caused to any person.

4 Sec. 16. Section 719.1, subsection 1, paragraph f, Code
5 2022, is amended to read as follows:

6 *f.* If a person commits interference with official acts,
7 as defined in [this subsection](#), and in so doing inflicts or
8 attempts to inflict serious injury, or displays a dangerous
9 weapon, as defined in [section 702.7](#), or a simulated firearm or
10 simulated explosive, as defined in [section 702.26](#), or is armed
11 with a firearm, that person commits a class "D" felony.

12 Sec. 17. Section 719.1, subsection 2, paragraphs f and g,
13 Code 2022, are amended to read as follows:

14 *f.* If a person violates [this subsection](#) and in so doing
15 inflicts or attempts to inflict bodily injury other than
16 serious injury to another, displays a dangerous weapon, as
17 defined in [section 702.7](#), or a simulated firearm or simulated
18 explosive, as defined in [section 702.26](#), or is armed with a
19 firearm, the person commits a class "D" felony.

20 *g.* If a person violates [this subsection](#) and uses or attempts
21 to use a dangerous weapon, as defined in [section 702.7](#), or a
22 simulated firearm or simulated explosive, as defined in [section](#)
23 [702.26](#), or inflicts serious injury to another, the person
24 commits a class "C" felony.

25 Sec. 18. Section 723A.1, subsection 1, paragraph c, Code
26 2022, is amended to read as follows:

27 *c.* An offense constituting a violation of [section 708.6](#)
28 involving intimidation with a dangerous weapon or simulated
29 firearm or simulated explosive.

30 Sec. 19. Section 724.4, Code 2022, is amended to read as
31 follows:

32 **724.4 Use of a dangerous weapon in the commission of a crime.**

33 A person who goes armed with a dangerous weapon or simulated
34 firearm or simulated explosive on or about the person, and who
35 uses the dangerous weapon or simulated firearm or simulated

1 explosive in the commission of a crime, commits an aggravated
2 misdemeanor, except as provided in [section 708.8](#).

3 Sec. 20. Section 902.7, Code 2022, is amended to read as
4 follows:

5 **902.7 Minimum sentence — use of a dangerous weapon.**

6 At the trial of a person charged with participating in a
7 forcible felony, if the trier of fact finds beyond a reasonable
8 doubt that the person is guilty of a forcible felony and that
9 the person represented that the person was in the immediate
10 possession and control of a dangerous weapon or simulated
11 firearm or simulated explosive, displayed a dangerous weapon
12 or simulated firearm or simulated explosive in a threatening
13 manner, or was armed with a dangerous weapon or simulated
14 firearm or simulated explosive while participating in the
15 forcible felony the convicted person shall serve a minimum of
16 five years of the sentence imposed by law. A person sentenced
17 pursuant to [this section](#) shall not be eligible for parole until
18 the person has served the minimum sentence of confinement
19 imposed by [this section](#).

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill relates to the use of a simulated firearm or
24 simulated explosive when committing certain criminal offenses,
25 and provides penalties.

26 The bill defines the terms "simulated firearm" and
27 "simulated explosive" for purposes of Code chapter 702
28 (criminal Code definitions) to mean a device or explosive that
29 appears to be a firearm or explosive when displayed or when
30 represented to be a firearm or explosive.

31 The bill adds the term "simulated firearm" to Code sections
32 708.1 (assault defined), 708.2 (penalties for assault), 708.2A
33 (domestic abuse assault), 708.2C (assault in violation of
34 individual rights), 708.3A (assaults on person engaged in
35 certain occupations), 708.11 (stalking), 709.3 (sexual abuse in

1 the second degree), 710.3 (kidnapping), and 711.2 (robbery in
2 the first degree).

3 The bill adds the term "simulated explosive" to Code section
4 713.3 (burglary in the first degree).

5 The bill adds the terms "simulated explosive" or "simulated
6 firearm" to Code sections 708.6 (intimidation with a dangerous
7 weapon), 713.4 (attempted burglary in the first degree), 713.5
8 (burglary in the second degree), 713.6 (attempted burglary in
9 the second degree), 719.1 (interference with official acts),
10 723A.1 (criminal street gangs — criminal acts), 724.4 (use of
11 a dangerous weapon in the commission of a crime), and 902.7
12 (minimum sentence for use of a dangerous weapon).

13 The penalties for the offenses listed in the bill range from
14 an aggravated misdemeanor to a class "B" felony. An aggravated
15 misdemeanor is punishable by confinement for no more than two
16 years and a fine of at least \$855 but not more than \$8,540. A
17 class "D" felony is punishable by confinement for no more than
18 five years and a fine of at least \$1,025 but not more than
19 \$10,245. A class "C" felony is punishable by confinement for
20 no more than 10 years and a fine of at least \$1,370 but not more
21 than \$13,660. A class "B" felony is punishable by confinement
22 for no more than 25 years.